



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/546,031	04/10/2000	Christopher Keith	0505-4001	3070

24259 7590 03/04/2003

BRENDA POMERANCE
260 WEST 52 STREET
APT 27B
NEW YORK, NY 10019

EXAMINER

GRAHAM, CLEMENT B

ART UNIT	PAPER NUMBER
----------	--------------

3628

DATE MAILED: 03/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/546,031

Applicant(s)

KEITH, CHRISTOPHER

Examiner

Clement B Graham

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3628

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. § 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

2. Claims 1-16, are rejected under 35 U.S.C. § 101 because, the claimed invention is directed to a non-statutory subject matter. Specifically the claims are directed towards an abstract idea. Claims 1-16, represent an abstract idea that does not provide a practical application in the technological arts. There is no post-computer process activity found, the claimed invention performs mathematical calculations with no post solution activity. Therefore applicant is reminded to embed a computer or processor or module into claims 1-16, in order to overcome this 101 rejection, appropriate correction is required.

Claim Rejections - 35 USC § 102

3. Rejection under 35 U.S.C 102(e), Patent Application Publication or Patent to Another with Earlier Filing Date, in view of the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 1-16 is rejected under 35 U.S.C. 102(e) as being anticipated by Hereafter Keiser U.S Patent 6,505,174.

Art Unit: 3628

As per claim 1-3, Keiser disclose notifying a set of entities of a proposed price for buying or selling a pending number of shares of a security. (See column 22 lines 5-10). Keiser also disclose automatically determining whether any of the entities has offered an improved price, and providing the improved price as the published price. (Note abstract and see column 3 lines 15-65 and column 4 lines 5-56 and column 6 lines 45-55 and column 27 lines 10-25).

As per claim 4-5, Keiser receiving a plurality of improved prices from respective ones of the entities during the predetermined interval, and selecting the best of the improved prices as the published price. (Note abstract and column 6 lines 45-65 and column 27 lines 10-25).

As per claim 6, Keiser disclose deciding to offer a proposed price when a current book price is different than a most recent trade price. (See column 11 lines 40-65).

As per claim 7, 10-11, Keiser receiving a proposed price for a pending number of shares of the security. (See column 22 lines 5-10). Keiser also disclose automatically determining whether to improve upon the proposed price, and when the determination is affirmative, offering an improved price. (Note abstract and see column 3 lines 15-65 and column 4 lines 5-56 and column 6 lines 45-55 and column 27 lines 10-25).

As per claim 8, Keiser disclose comprising registering to receive proposed prices for trading the security. (See column 2 lines 25-35 and column 21 lines 60-65).

As per claim 9, Keiser disclose receiving a current price, deciding whether the current price is good enough. (Note abstract and see column 3 lines 15-65 and column 4 lines 5-56 and column 6 lines 45-55 and column 27 lines 10-25). Keiser also disclose a user must be registered prior to accessing the system. (See column 21 lines 60-65).

Art Unit: 3628

As per claim 12, 14-16, Keiser disclose maintaining an order book including orders to buy or sell specified quantities of the security at respective prices, the lowest sell order price of the booked orders being the book sell price, the highest buy order price of the booked orders being the book buy order price, automatically engaging in a price discovery procedure before responding to a request for a current buy or sell price of the security to produce an automatically discovered price, and providing the automatically discovered price as the current buy or sell price, the automatically discovered price being better than the book buy or sell price.(See column 2 lines 5-65 and column 3 lines 15-65 and column 4 lines 5-56 and column 6 lines 45-55 and column 27 lines 10-25).

As per claim 13, Keiser disclose wherein the price discovery procedure includes providing the book buy or sell price to at least one entity registered to participate in the price discovery procedure.(See column 2 lines 5-65 and column 3 lines 15-65 and column 4 lines 5-56 and column 6 lines 45-55 and column 27 lines 10-25).

Conclusion

5. The prior art of record and not relied upon is considered pertinent to Applicants disclosure.

Nieboer et al (US Patent 6,418,419) teaches automated system for conditional order transactions in securities or other items in commerce.

Minton (US 6,014,643 Patent) teaches interactive securities trading system.

Reese (US Patent 6,236,980) teaches magazine online broadcast recommendation reporting system to aid in decision making.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone

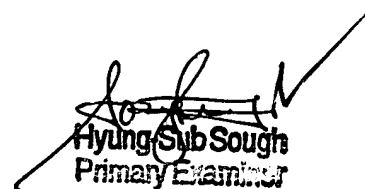
Art Unit: 3628

number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG
February 26, 2003


Hyung Sub Sough
Primary Examiner